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OFFICE OF PETITIONS

In re Application of
Watterson et al.
Application No. 09/641,600
Filed: August 18, 2000
Attorney Docket No. 13914.579.2

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: DECISION ON REQUEST FOR
: RECONSIDERATION OF
: PATENT TERM ADJUSTMENT
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This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed September 1, 2004. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from six hundred ninety-four (694) days to seven hundred five (705) days. -

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is seven hundred five **(705)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 2, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 694 days. On September 1, 2004, applicants timely¹ submitted an application for patent term adjustment (with required fee). Applicants dispute the reduction of 11 days attributed to their delay in responding to the Notice to File Missing Parts of Application mailed October 6, 2000.

¹ PALM records indicate that the Issue Fee was also received in the Office on September 1, 2004.

Applicants specifically state that the patent issuing from the application is not subject to a terminal disclaimer.

Applicants are correct. Their response to the Notice to File Missing Parts of Application mailed October 6, 2000, is of record in the application with a date of receipt by the Office of December 6, 2000 ("Express Mail" date). Furthermore, the response has been accepted as a complete reply to the Notice. Thus, the Office should not have assessed applicants a delay of 11 days. The response was filed within the three-month period under 37 CFR 1.704(b). Applicants did not fail to engage in reasonable efforts to conclude prosecution of the application by delaying in replying to the Notice to File Missing Parts of Application.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is seven hundred five (705) days.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office of Patent Publication has been advised of this decision. The application is thereby forwarded for processing into a patent. (Receipt of the Petition to Withdraw under 37 CFR § 1.313(c)(2) and Request for Continued Examination (RCE) filed November 1, 2004, and submission filed November 16, 2004 is acknowledged. The examiner's response will be forwarded in due course.)

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Kerry A. Ferriter
for

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Revised PAIR Screen